

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BRIAN EDWARD SCOTT,	)	
	)	
Petitioner,	)	
	)	1:14CV483
v.	)	1:11CR236-1
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before this court for review of the Order and Recommendation filed on June 1, 2017 (Doc. 52) by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommends that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 35), as amended, be denied and that this action be dismissed. The Recommendation was served on the parties to this action on June 1, 2017 (Doc. 53). Petitioner timely filed objections (Doc. 55) to the Recommendation and also moved to amend his § 2255. The Magistrate Judge entered an order denying Petitioner's motion to amend as futile and concluded, in light of Petitioner's objections and all of the pleadings on record, to withdraw the part of the Recommendation addressing Petitioner's first ground

for relief alleging ineffective assistance of counsel (Doc. 57). An evidentiary hearing was held on August 30, 2017, before the Magistrate Judge.

Also before the court for review is the Order and Second Recommendation filed on October 5, 2017 (Doc. 63) by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). In the Second Recommendation, the Magistrate Judge recommends that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 35), as amended, be denied for the reasons set out in this Recommendation and for the reasons set forth in pages nine through eleven of the prior Recommendation (Doc. 52) and that this action be dismissed. The Second Recommendation was served on the parties to this action on October 5, 2017 (Doc. 64). Petitioner timely filed objections (Doc. 67) to the Recommendation.

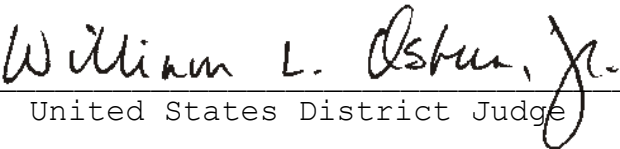
This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendations to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendations. This court therefore adopts the Recommendations.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendations (Docs. 52, 63) are **ADOPTED. IT IS FURTHER ORDERED** that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 35), as amended, is **DENIED** for the reasons set out in the Recommendation (Doc. 63) and for the reasons set forth in pages nine through eleven of the prior Recommendation (Doc. 52) and that this action is dismissed.

A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 26th day of February, 2018.

  
United States District Judge